

**BOARD OF GAME AND INLAND FISHERIES MEETING MINUTES
4000 WEST BROAD STREET
RICHMOND, VIRGINIA**

NOVEMBER 29, 2005, 9:00 a.m.

PRESENT: Sherry Smith Crumley, Chairman, C. Marshall Davison, William T. Greer, Jr., John W. Montgomery, Jr. (arrived 9:15 a.m.), Railey, Ward Burton, C. T. Hill, Charles S. Yates, Thomas A. Stroup, James W. Hazel, **ABSENT:** Randy J. Kozuch, Schedule Conflict; **LEGAL COUNSEL:** Roger Chaffe, **INTERIM DIRECTOR,** Colonel W. Gerald Masssengill; **SENIOR STAFF:** Major Mike Bise, Raymond E. Davis, Robert W. Duncan, Gary F. Martel, Charlie Sledd, David K. Whitehurst

Chairman Crumley called the meeting to order at 9:00 a.m. Mr. Hill read the mission statement and the Pledge of Allegiance to the Flag was lead by Scott Naff. A quorum was present.

Ms. Crumley welcomed Ward Burton to the Board. Mr. Burton was recently appointed to the Board to represent the Fifth Congressional District. Over the years, Mr. Burton has donated time to the Department to work for House Bill 38, the constitutional amendment guaranteeing the right to hunt and fish, and other initiatives beneficial to sportsmen and women.

1. Public Comment, Non-Agenda Items: No requests were received to speak on non-agenda items.

2. Recognition of Employees and Others: Colonel Massengill was recognized. He requested Marsha Garst, Commonwealth Attorney for Rockingham County and Christopher L. Miller, Assistant Commonwealth Attorney for Rockingham County to come to the podium for recognition for their outstanding service to the agency's law enforcement efforts. These individuals assisted for several years with some undercover operations dealing with the illegal trafficking of bear parts (Operation SOUP and Operation VIPER). These operations resulted in multiple state and federal charges involving many individuals. They also assisted with bringing other wildlife-related concerns to closure. Colonel Massengill presented plaques to Ms. Garst and Mr. Miller that read: "In Recognition of Marsha I. Garst, Commonwealth Attorney for the County of Rockingham and the City of Harrisonburg by the Department of Game and Inland Fisheries for outstanding service to the Commonwealth of Virginia in support of Operation VIPER and for the continuing efforts to curb the illegal trafficking of wildlife."

"In Recognition of Christopher L. Miller, Rockingham County Assistant Commonwealth Attorney by the Virginia Department of Game and Inland Fisheries for outstanding

service to the Commonwealth of Virginia in support of Operation VIPER and for the continuing efforts to curb the illegal trafficking of wildlife in Virginia.”

3. Minutes of the October 27, 2005 Board Meeting: Draft minutes of the October 27, 2005 Board meeting were posted on the Department’s web site and copies were distributed with the meeting briefing materials. Chairman Crumley called for any additions or corrections to the minutes. As there were none, **Mr. Railey moved, seconded by Mr. Hill, passed unanimously in a show of hands vote, that the minutes be approved as written. Ayes: Railey, Hill, Davison, Greer, Burton, Crumley, Yates, Stroup and Hazel. Mr. Montgomery was not in the room when the vote was recorded.)**

4. The Wildlife Foundation of Virginia: Jenny West, Executive Director for the Wildlife Foundation of Virginia was recognized. Ms. West provided a PowerPoint presentation on the Foundation and its conservation work in Virginia. It is a statewide non-profit 501 C3 organization founded in 1997 and its mission is to sustain hunting and fishing in Virginia by increasing public access opportunities. The Foundation is governed by a Board of Directors and Ms. West is its only full time employee.

Working with public and private partners, the Foundation identifies areas in Virginia that can be used to increase public access and opportunity, and they have acquired lands in the counties of Fluvanna, Accomac and New Kent that are adjacent to the Hardware River, Saxis and Game Farm Marsh Wildlife Management Areas. These lands have been gifted to the Department. The Foundation also received, by gift, over 2,000 acres in Albemarle County from the Thomas Forrer family known as Fulfillment Farms. This property is managed to benefit outdoor enthusiasts and public access is provided at no cost to users.

The Foundation welcomes input on areas that have a lack of public access or can benefit from public access. When identified, the Foundation will work with landowners on acquisition strategies.

Ms. Crumley noted that the Board and the Department look forward to a stronger relationship with the Wildlife Foundation. The Board also requested Ms. West to keep Department staff and the Board aware of any impediments found to being able to take youth hunting and/or fishing.

5. Committee Reports: AUDIT COMMITTEE: Mr. Montgomery reported that the Audit Committee met on November 17 to conduct its review of employee small purchase credit card activity. The 10% random review of cardholder charges revealed two unresolved transactions. Management is investigating the two charges.

GOVERNANCE COMMITTEE: Mr. Hazel and David Whitehurst performed a page-by-page review of the draft Governance Manual and Code of Ethics and Conduct

documents that were developed by the Committee for the Board's consideration. An edited version of the draft documents were distributed to Board members that included revisions recommended by legal counsel. In addition to minor typographical or grammatical changes, the Board noted or offered the following suggested revisions:

- to insure that the documents are consistent when referring to the duties of the Chairman and Vice Chairman,
- add a statement regarding ex parte requirements during open public comment periods,
- clarify that the Board will conduct an annual review of its policies in January,
- to clarify that the Chairman will work with the Director to develop a Board meeting agenda,
- to provide a separate secretarial support position to assist the Board,
- to add an addendum that the Board secretary will prepare a calendar of events for the Board to insure compliance with all requirements and deadlines,
- how the Board responds to Freedom of Information Act requests,
- to add a mechanism for Board members to participate in meetings via teleconferencing,
- to clarify that the Chairman is the spokesman for the Board on issues involving a full Board decision, but Board members are free to interact with the press on individual interests and/or actions,
- to clearly specify appropriate employee/Board interaction,
- to define an ends policy, and
- to clarify that while a Board member is appointed to represent a specific Congressional District, members also represent statewide interests and issues.

Staff was requested to edit the documents as specified and the Board was asked to be prepared to take final action on these documents at its scheduled December meeting. Staff was also requested to post copies of these documents on the agency's web site as an attachment to the draft meeting minutes.

Chairman Crumley provided an opportunity for the public to comment.

Ed Rhodes, Richmond, Virginia stated that the public was inconvenienced by not having copies of the discussed documents for reference. He wanted to know if the manual provides an opportunity for the public to add items to the announced agenda and if the Board secretarial position would require an additional FTE. He also felt that the agency's existing media relations position could handle public relations matters for the Board.

At future meetings, the Board requested staff to have copies of draft documents available for the public.

The Chairman called for a break at 10:50 a.m. and the meeting reconvened at 11:08 a.m.

Policy Committee: Mr. Yates reported that the Policy Committee met November 16 and reviewed staff recommendations for needed policies. Copies of proposed policies were made available to the Board for review, but because the Policy Committee had not had an opportunity to meet, he felt that it was too soon for the full Board to consider the proposed policies. A follow-up December Policy Committee meeting is planned, and the Committee plans to present policies to the full Board for its consideration at its December 14 meeting (changed from the previously announced date of December 16, 2005).

Colonel Massengill stated for the record that the Office of the Secretary of Natural Resources has requested the Board to complete its work on the Governance and Policy documents before the next administration assumes office.

SEARCH COMMITTEE: Mr. Montgomery reported that the Search Committee met briefly on October 27, 2005 and copies of the applications received for the vacant Director's position were provided to each member of the Committee. He felt that the Committee is on target for completing its task within the required time frame. He also wants to seek input from agency staff via e-mail on traits employees would like to see in the new director. Employees would be expected to respond directly to Mr. Montgomery via email. Employee comments will be shared with Search Committee members.

6. Board Resolution Regarding an Exception to the Requirement to Display Motorboat Registration Decals: Charlie Sledd presented the following resolution to allow the Director to grant an exception, upon written request and for good cause, to the requirement that boat owners display decals on certain types of vessels.

Whereas § 29.1-703 of the Code of Virginia requires that decals signifying the last month and year during which the certificate of number is valid must be displayed on each side of the motorboat within six inches of the registration number so as to be visible while the motorboat is being operated; and whereas 4 VAC 15-390-40 provides that on vessels so configured that a number on the hull or superstructure would not be easily visible or the numbers would not remain securely attached, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel; and whereas § 29.1-703 of the Code of Virginia provides that upon written request and for good cause, the Board may allow exceptions to the requirement to display decals; and whereas § 29.1-103 of the Code of Virginia authorizes the Board to adopt resolutions or regulations conferring upon the Director all such powers, authorities and duties as the Board possesses and deems necessary or proper to carry out the purposes of this title; and whereas the Department has received a written complaint that motorboat registration decals will not adhere to certain inflatable boats, and that the use of a backing plate is subject to getting caught on docks and other fixed

objects that may then damage the boat at their point of attachment; now therefore be it resolved by the Board of Game and Inland Fisheries, meeting in public session this 29th Day of November 2005, does confer upon the Director of the Department of Game and Inland Fisheries the Board's authority to allow exceptions to the requirement to display decals. Exceptions shall only be considered upon written request and for good cause on certain types of vessels, which includes, but is not limited to, those vessels so configured that a decal on the hull or superstructure would not be easily visible or the decals may not remain securely attached; and be it further resolved that when exceptions are authorized by the Director that the vessel operator shall have the registration decals on board the vessel and available for inspection by any game warden or other law enforcement officer.

An opportunity was provided for Board members and the public to comment on the proposed resolution and no comments were heard.

Mr. Hazel moved, seconded by Mr. Hill, passed unanimously in a show of hands vote, to approve the resolution of the Board of Game and Inland Fisheries allowing exceptions to the placement of boat decals. (Ayes: Hazel, Hill, Davison, Greer, Montgomery, Railey, Burton, Crumley, Yates, and Stroup)

7. Financial Report: Ray Davis presented an overview of the October 2005 financial report that was distributed to Board members prior to the meeting. He also presented an overview and explanation of how the agency tracks its expenditures via coding requirements.

An opportunity was provided for Board members to discuss the topic. Additionally, John Montgomery invited all Board members to participate in a future small purchase credit card review meeting.

8. Chairman's Remarks: Ms. Crumley reported that she and Colonel Massengill recently met with the Crime Commission. She also indicated that they have met with Delegate Kathy Byron regarding boating safety issues at Smith Mountain Lake, and they have also met with the Secretary of Natural Resources, W. Taylor Murphy, Jr. and Deputy Secretary of Natural Resources David Paylor to keep them informed on the Board and the Department's efforts to address issues identified in the May 2005 Report of the Internal Auditor.

Ms. Crumley requested staff to consider whether the decline in fishing license sales can be attributed to a reduction in license agents across the state. Also, she asked staff to consider alternative options for delivering regulatory information to constituents purchasing licenses electronically. She indicated that the media should not be expected to distribute hunting and fishing laws to the public that elect to use technology to purchase licenses.

The Board discussed the December 16 meeting date and it was the consensus of the Board to change the meeting to December 14, 2005, beginning at 9:00 a.m.

9. Director's Report: Colonel Massengill commented on the recent meeting with the Crime Commission that is reviewing enabling legislation for supervisory boards. Because of the work of this Board, they are considering the introduction of legislation to codify by state statute the governance manual. Additionally, code changes are being considered to insure that major decisions will be made by the entire Board, the Chairman's duties will be codified in state statute, i.e., serve as liaison between the Board and the Secretary of Natural Resources, to require a vice chairman's position in statute, to clarify when Board meetings will occur (quarterly), that three members of the Board can call a meeting, and to require an annual compliance audit of all policies. The Commission has requested one of its staff attorneys to assist the Board in drafting desired legislation. Colonel Massengill also requested Board members to share any additional ideas for needed legislation with he or Board member Jimmy Hazel.

Colonel Massengill reported that the Virginia Code Commission plans to recodify Title 29.1 in 2007 to group items according to subject matter.

Dave Morton in the Wildlife Diversity Division demonstrated "Find Game" a new Department initiative based on the agency's web site. This is an interactive tool that allows hunters to find public hunting lands and it also contains information on the wildlife species found there. Information will be provided on the landowner, who to contact, facilities available and links to additional information. The project was funded by a National Shooting Sports Foundation grant. Staff was encouraged to continue to use technology to keep constituents informed.

Bob Duncan briefly discussed the outbreak of chronic wasting disease in West Virginia. A fifth case has been found within four miles of Virginia's border. As a result, Virginia is enhancing its surveillance efforts. Thus far, tests on collected samples have been negative for the disease.

James Adams provided a PowerPoint presentation on the Region III office building under construction in Marion. Occupancy is planned for January 2006. In addition to staff offices, the building will provide public meeting space and warehouse storage. A dedication ceremony will be planned for the spring.

A Region I office is under design for construction on a site owned by Virginia Commonwealth University known as the Rice Property. The facility will also provide office and public meeting space, and warehouse and equipment storage units. When built, it will replace the Department's current leased office space located in Williamsburg.

Colonel Massengill shared that Virginia will be hosting the 2006 Southeastern Association of Fish and Wildlife Agencies conference. The conference will be held in Norfolk. The dates are November 4-7, 2006.

Colonel Massengill reported that game wardens continue to assist with the Hurricane Katrina recovery efforts on the Gulf Coast. A fourth unit may be deployed in mid-December.

10. Closed Session: In open session at 1:10 p.m., **Mr. Stroup moved, seconded by Mr. Davison, passed unanimously in a show of hands vote, that the Board go into a closed meeting pursuant to § 2.2-3711.A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for a public purpose or of the disposition of publicly held real property with respect to a status report on previously approved property acquisitions in the City of Chesapeake, the County of Wise, and the County of Louisa, a status report on possible property acquisitions in Northern Virginia and Southwest Virginia, and a discussion on possible partnerships for other property matters, and further pursuant to § 2.2-3711.A.1 of the Code of Virginia for discussion or consideration of employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Department of Game and Inland Fisheries specifically regarding the performance of the interim director, and further, pursuant to § 2.2-3711.A.7 of the Code of Virginia for consultation with legal counsel regarding a specific legal matter in the County of Frederick requiring the provision of legal advice by such counsel. Ayes: Stroup, Hazel, Davison, Greer, Montgomery, Railey, Burton, Crumley, Hill, and Yates.**

In open session at 2:15 p.m., **Mr. Stroup certified, seconded by Mr. Hazel, passed unanimously in a show of hands vote, that whereas the Board of Game and Inland Fisheries had convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act, and whereas § 2.2-3712.D of the Code requires a certification by this Board that such closed meeting was conducted in conformity with Virginia law; now, therefore, be it resolved that the Board of Game and Inland Fisheries hereby certifies that (i) to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board. Ayes: Stroup, Railey, Davison, Greer, Burton, Crumley, Hill, Yates and Hazel. Mr. Montgomery had to leave the meeting at 1:30 due to a schedule conflict.**

Prior to adjournment, Colonel Massengill reported that the Montebello Fish Hatchery was flooded due to heavy rains in Nelson County.

Chairman Crumley announced that the next meeting of the Board will be December 14, 2005, beginning at 9:00 a.m.

Mr. Hazel suggested that some Board members may wish to participate in the December 14 meeting via telephone.

Adjournment: As there was no further business, the meeting was adjourned by the Chairman at 2:20 p.m.

Respectfully submitted,

Belle Harding
Recording Secretary

As amended and approved by the Board at its December 14, 2005 meeting.